

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 18-CR-137

MARCO A. MACIAS,

Defendant.

**ORDER GRANTING DEFENDANT’S REQUEST FOR
EVIDENTIARY HEARING ON MOTION TO SUPPRESS**

On June 19, 2018, a grand jury sitting in the Eastern District of Wisconsin returned a single count indictment against Marco A. Macias charging him with being an unlawful user of a controlled substance, specifically marijuana, in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(3) and 924(a)(2). Macias has filed a motion to suppress all evidence recovered from a search of a vehicle that was on scene at a house where Macias was arrested on May 4, 2018. (Docket # 14.) In his motion, Macias argues that he did not consent to the search of the vehicle. Macias further argues that the vehicle was not his vehicle in the first instance. Macias seeks an evidentiary hearing on his motion.

The government objects to Macias’ request for an evidentiary hearing. (Docket # 15.) The government argues that Macias does not have standing to challenge the search of the vehicle given his position that the vehicle was not his. The government further argues that the search was authorized by the officer’s observation of a green plant substance believed to be marijuana in plain view through the vehicle’s windows. The government also argues Macias consented to the search.

I cannot determine the merits of the issues presented by the parties without an evidentiary hearing. Accordingly, I will grant an evidentiary hearing to address the following issues: (1) whether Macias has standing to challenge the search; (2) if Macias has standing, whether the search was authorized by Macias' consent and/or by the plain view doctrine. The clerk's office will contact the parties to schedule a hearing.

IT IS THEREFORE ORDERED that Macias' request for an evidentiary hearing is **GRANTED**. The clerk's office will contact the parties to schedule the evidentiary hearing.

Dated at Milwaukee, Wisconsin this 19th day of July, 2018.

BY THE COURT

s/Nancy Joseph
NANCY JOSEPH
United States Magistrate Judge